

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ORIGINAL

UNITED STATES OF AMERICA,

Plaintiff,

v.

AMERICAN SOCIETY OF COMPOSERS,
AUTHORS AND PUBLISHERS,

Defendant.

Civil Action No. 41-1395 (WCC)

~~PROPOSED~~
STIPULATION AND ORDER

In the matter of the Application for the
Determination of Reasonable License Fees for
Performances via Wireless Transmissions and
Internet Transmissions by

AT&T WIRELESS f/k/a CINGULAR WIRELESS

IT IS HEREBY STIPULATED AND AGREED, by and among the American Society of Composers, Authors and Publishers ("ASCAP") and AT&T Mobility LLC f/k/a Cingular Wireless ("AT&T")¹ (collectively, the "Parties") that:

1. The Parties have completed all service of any fact discovery, but acknowledge that the completion of noticed discovery and follow-up concerning same will continue. Whereas certain items need to be completed before each side is prepared to serve its expert reports, the following schedule for expert reports shall apply.

2. On or before **June 1, 2009**, the Parties shall disclose their experts in accordance with Rule 26 of the Federal Rules of Civil Procedure;

3. AT&T shall file its summary judgment motion concerning ringtones on or before **May 22, 2009**; ASCAP's response thereto shall be filed on or before **June 12, 2009**; AT&T's

¹ AT&T has advised ASCAP that AT&T Mobility LLC is the successor in interest to Cingular Wireless, rather than AT&T Wireless, as indicated in the caption. ASCAP will seek permission of the court to update the caption accordingly once it has verified this information.

reply brief shall be filed on or before **June 24, 2009**; and, *amici* filings, if any, shall be filed on or before **July 1, 2009**.

4. Within seven (7) calendar days of the completion of the depositions and receipt of the transcripts of BMI and Robert White, and the completion of any discovery concerning AT&T's relationship with Apple upon the decision of the Court concerning AT&T's May 27, 2009 *in camera* submission, ASCAP shall serve any initial expert reports on AT&T;

5. Within thirty (30) calendar days of the receipt of ASCAP's initial expert reports, AT&T shall serve any initial or rebuttal expert reports on ASCAP, unless the document discovery served upon the publishers and labels by AT&T has not been completed, and the depositions of the publishers and labels noticed by AT&T (if any go forward) have not been completed, in which case the parties will agree to a reasonable extension;

6. Within twenty-one (21) calendar days of the receipt of AT&T's initial expert reports, ASCAP shall serve any expert rebuttal reports on AT&T;

7. Within fourteen (14) calendar days of the receipt of ASCAP's expert rebuttal reports, AT&T shall serve any expert rebuttal reports on ASCAP;

8. The Parties shall complete expert discovery by **September 30, 2009**;

9. The Parties shall file any Court-approved dispositive motions on or before **October 15, 2009**; dispositive motion response briefs shall be filed by **November 5, 2009**; and, dispositive motion reply briefs shall be filed by **November 13, 2009**;

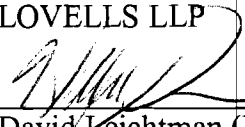
10. The Parties shall appear for a pretrial conference on **November 20, 2009, at 11:15 a.m.**

Nothing in this Scheduling Order shall prevent either party from asking the Court to set additional dates or otherwise modify this Scheduling Order.

The parties, by their counsel, hereby consent to the foregoing Order:

Dated: New York, New York
May 20, 2009

LOVELLS LLP



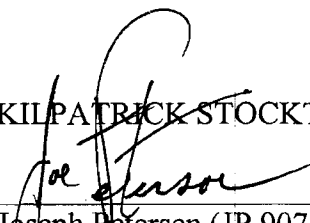
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Dated: New York, New York
May 20, 2009

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*Attorneys for Applicant AT&T Mobility
LLC*

SO ORDERED.

Dated: White Plains, New York
May 21, 2009



Sr. United States District Judge